



A BILL FOR AN ORDINANCE

RELATING TO COMMUNITY WORKFORCE AGREEMENTS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and purpose.

Public works projects involve numerous contractors and employees in different trades, have critical timelines for completion, and require skilled and properly trained workers to successfully complete the work in a safe and timely manner. To avoid delays and additional expense to the City and County of Honolulu ("City"), it is essential that the most critical public works projects proceed without labor disruptions, whether due to external labor relations factors or the frictions that can arise when a large number of contractors and their employees and subcontractors work in proximity to one another on a job site.

As the City grows in size and connects more communities via infrastructure development, the City has an overriding interest in maintaining the continuity of efficient construction work by using skilled and trained labor. In a complex and urban environment such as Honolulu, it is essential to avoid delay in completing critical public works projects so that public funds are utilized prudently and residents and visitors are not adversely impacted by interruption in public services or delay in the use of facilities that are important to the essential operations or infrastructure of the City.

A Community Workforce Agreement ("CWA") is a form of Project Labor Agreement ("PLA"), which is a construction industry collective bargaining agreement applied to a particular public works project or set of projects. CWAs have been used for many years to achieve high-quality construction performance and the economic benefits that result from having a guaranteed source of skilled workers and avoiding work disruptions.

In the private sector, CWAs have been and are being used successfully on a variety of projects, such as the United States Navy's privatized military housing stabilization agreement, and other large and small private developments, including the retrofitting and remodeling of existing buildings and facilities. On public works projects, CWAs have been and are being used successfully by governmental entities, including the Honolulu Authority for Rapid Transportation and the State Department of Accounting and General Services.



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CWAs on public works projects are open to both union and non-union contractors. A public agency awarding a project covered by a CWA may select any qualified bidder for the award without regard to whether it is otherwise a signatory to a union collective bargaining agreement.

CWAs on public works projects also promote government efficiency, thus lowering costs, in a number of ways. They prevent labor strikes or slowdowns during the life of the agreement; set work rules, schedules and conditions; build jobsite harmony by placing all contractors and workers on a level playing field; and provide for arbitration procedures to resolve grievances and jurisdictional disputes. They also increase public confidence in government procurement and improve transparency in the competitive bidding process.

The construction crafts needed on public works projects require a supply of new apprentices to perpetuate those crafts into the future. It is essential to train a local pool of skilled labor in the construction sector who will be able to competently and safely construct future public works projects. Through their apprenticeships, local construction unions provide genuine opportunities for long-term, well-paid careers in the construction industry. Entry into and employment through these apprenticeships can be facilitated by a formal understanding between the City and the local construction unions who fund and operate such apprenticeships.

In addition, veterans may be seeking employment on public works projects and training opportunities for entrance into the construction industry. Such training opportunities are available through a program known as "Helmets to Hardhats," which is founded and operated by construction unions locally and nationally and incorporated into community workforce agreements, nationwide.

Economic exclusion and the City's housing crisis have led, and will continue to lead, to significant displacement and out-migration of Honolulu residents. There is a need to provide economic opportunities to enable such displaced residents to return to Honolulu.

CWAs have proven to be a valuable mechanism across the United States in addressing many of these issues, and have been a major factor in producing high quality construction work and projects that are completed on time, within budget, and without labor strife or disruptions. This ordinance is intended to require the City to negotiate a CWA for certain critical public works projects in order to promote labor harmony, prevent labor disputes and slowdowns, achieve and promote efficient, high-quality construction that meets strict construction deadlines, improve City services, and ensure a steady local supply of skilled and trained labor on proprietary construction projects.



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The CWA will apply to critical City projects in which the City has a particular interest in timely and cost-efficient project completion. In particular, the CWA will cover any large-scale public works project, including any police, fire, emergency services, erosion, rock-fall mitigation, roads, storm-water or sewer infrastructure, and pump station projects, in which there is a contract in excess of \$2,000,000 for the building, erection, installation, or assembly of a new structure, building, or facility, or of new infrastructure. The operation and maintenance of City structures, buildings, facilities, or infrastructure are not intended to be covered by this ordinance and will continue to be provided by the public workers who are currently performing them, including, but not limited to, the operation and maintenance, including ground maintenance, of government provided low-income housing, roads, water systems, buildings, facilities, wastewater systems; refuse and solid waste removal; and any other operation and maintenance tasks for government.

To address rising sea levels and the effects of climate change on the City's coastline, the City must act quickly to move roads, parks, and infrastructure in-land. Moreover, to address the increasing population density in the City and the corresponding overwhelming need for affordable housing, and to prepare for the anticipated significant growth in transit-oriented development, the City must also build infrastructure to support residential and mixed-use projects. The City also anticipates building large-scale projects that will provide essential services to the community. Delay in completing these projects will lead to interruption or delay of services or use of facilities that are important to the essential operations and infrastructure of the City. The CWA will help ensure that the City completes these critical projects on time and on budget.

SECTION 2. Chapter 2, Revised Ordinances of Honolulu 1990 ("The Mayor and Executive Agencies – Additional Powers, Duties and Functions"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"Article ____ . Community Workforce Agreements

Sec. 2-____.1 Definitions.

As used in this article:

"Agreement to be Bound" means the agreement attached to the Community Workforce Agreement that must be executed by each and every Contractor as a condition of working on a Covered Project, under which each and every Contractor agrees to be bound by the CWA.



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"Community Workforce Agreement" or "CWA" means the multi-craft collective bargaining agreement between the city, the Hawaii Building and Construction Trades Council and its affiliated labor unions, and the Hawaii Construction Alliance and its affiliated labor unions, that governs the terms and conditions of employment on all Covered Projects.

"Contractor" means any individual, firm, partnership, corporation, or other business entity (including but not limited to a general contractor, project manager, construction manager, or primary employer, or combination thereof), including joint ventures, and any successors and assigns of the foregoing, that has entered into a contract to perform, assign, award, or subcontract any part of the construction work on a Covered Project, and all contractors and subcontractors of any tier.

"Covered Work" means all work covered by Master Agreements of the Unions.

"Covered Project" means any large-scale public works project, including any police, fire, emergency services, erosion, rock-fall mitigation, road, storm-water or sewer infrastructure, and pump station projects, in which there is a contract in excess of \$2,000,000 for the building, erection, installation, or assembly of a new structure, building, or facility, or of new infrastructure, including any such projects receiving funding from a bond issuance of the city, and any other public works project where the city has determined that delay in completing the project may lead to interruption or delay of services or use of facilities that are important to the essential operations or infrastructure of the city; provided, however, that the term does not include the routine operation or maintenance of a structure, building, or facility, or of new infrastructure.

"Local Area" means the City and County of Honolulu.

"Maintenance" means the upkeep of a structure, building, or facility, or of infrastructure, to preserve the original functional and operational state of the structure, building, facility, or infrastructure, and includes any task that has been traditionally and historically performed by public workers in or upon structures, buildings, facilities, and infrastructure.

"Master Agreement" means the master collective bargaining agreement of each Union signatory to the Community Workforce Agreement.

"Operation" means activities related to the normal performance of the functions for which a structure, building, facility, or infrastructure is intended to be used.

"Union" includes the Hawaii Building and Construction Trades Council ("HBCTC") and the Hawaii Construction Alliance ("HCA"), and their affiliated labor organizations, acting on their own behalf and on behalf of their own respective affiliates and member



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organizations, whose names are subscribed to the Community Workforce Agreement. The parties to the Community Workforce Agreement may mutually agree, in writing, to amend or modify the list of affiliated labor organizations in the event there is a change in affiliation. Nothing in this article is intended to imply that the city has the authority to approve which local unions may affiliate with the HBCTC or HCA.

Sec. 2-____.2 Required terms for citywide community workforce agreement.

The citywide Community Workforce Agreement ("CWA") must include the following terms:

- (1) The CWA must be binding on all Contractors at all tiers, and all Contractors shall condition the engagement of each subcontractor on the subcontractor's execution of an Agreement to be Bound;
- (2) The CWA must include all construction work on a Covered Project that is included in a Master Agreement;
- (3) The City may select any qualified bidder for its award of a contract for a Covered Project without regard to whether it is otherwise a signatory to a Master Agreement. The bidder need only be willing, ready and able to execute and comply with the terms of the CWA in order to be awarded a contract on a Covered Project;
- (4) The CWA must prohibit discrimination on any basis prohibited by federal, state, or local law;
- (5) Alleged violations of the CWA must be resolved by a mandatory, final, and binding arbitration procedure;
- (6) The Unions shall refrain from strikes, picketing, and other labor actions on or arising from a Covered Project and the Contractors shall refrain from lockouts or similar actions on or arising from a Covered Project;
- (7) Contractors shall request referral of residents of the Local Area, and the CWA must contain a goal that not less than eighty percent of all hours on Covered Projects will be worked by residents of the Local Area. To the extent allowed by law, and consistent with the Unions' hiring hall provisions, as long as they possess the requisite skills and qualifications, residents of the Local Area shall be referred to Contractors working on Covered Projects. In the event there are insufficient residents in the Local Area to meet the needs of Covered Projects, Contractors may request referral of residents from other counties in the State of Hawaii;



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- (8) All apprentices must be indentured in a state-approved apprenticeship program;
- (9) Incorporation of the "Helmets to Hardhats" program, which creates pathways for careers in construction to returning veterans;
- (10) The wages, hours, shift schedules, holidays, and other terms and conditions of employment must be governed by the Master Agreement of the applicable craft; and
- (11) The CWA must be in effect for a five-year term, and unless otherwise ordered by the City, will roll over for successive five-year terms thereafter. The CWA must apply to each Covered Project until completion of the project.

Sec. 2-____.3 Local business preference.

The city has an interest in the use of local businesses in order to support the local economy and local infrastructure development. Therefore, to the maximum extent possible, Contractors on Covered Projects are encouraged to contract with businesses that are owned by residents of the city or have their primary business located within the city.

Sec. 2-____.4 Contract awards.

The award of a contract on a Covered Project must be conditioned upon the execution of an Agreement to be Bound by the CWA, and all Contractors on all Covered Projects must execute an Agreement to be Bound by the CWA as a precondition of performing, assigning, awarding, or subcontracting work on a Covered Project."

SECTION 3. No later than 90 days after the effective date of this ordinance, the Mayor shall:

- (1) Negotiate with the Unions and execute on behalf of the City a Community Workforce Agreement to apply to all Covered Projects; or
- (2) Seek an extension of time from the Council, if necessary to complete negotiations. However, the Mayor is directed to negotiate and execute the Community Workforce Agreement with all deliberate speed. The Council may grant the extension of time by adopted resolution.



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SECTION 4. Consistency with Hawaii State Constitution. All "covered projects" and all "community workforce agreements," as those terms are defined in SECTION 2 of this ordinance, shall comply with and be in accordance with the right to organize for the purpose of collective bargaining guaranteed under Article XIII, Sections 1 and 2, of the State Constitution, and the operation and maintenance of facilities that are constructed pursuant to such community workforce agreements shall be consistent with the merit principle under Article XVI, Section 1, of the State Constitution.

SECTION 5. Conflict with federal or Hawaii State law. Nothing in this ordinance shall be interpreted or applied so as to conflict with federal or State law, or to create any requirement, power, or duty in conflict with any federal or State law.

SECTION 6. Severability. If any provision of this ordinance, or the application thereof to any person or circumstances, is held invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.



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SECTION 7. This ordinance takes effect on May 30, 2020.

INTRODUCED BY:

Joey Manahan

DATE OF INTRODUCTION:

June 25, 2019

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu

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CERTIFICATE

ORDINANCE 19-24

BILL 37 (2019), CD1, FD1

Introduced: 06/25/19 By: JOEY MANAHAN

Committee: BUDGET

Title: A BILL FOR AN ORDINANCE RELATING TO COMMUNITY WORKFORCE AGREEMENTS.

Voting Legend: * = Aye w/Reservations

07/03/19	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TSUNEYOSHI, WATERS.
07/24/19	BUDGET	CR-221 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING. 5 AYES: ELEFANTE*, MANAHAN, MENOR*, PINE, WATERS.
07/27/19	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
08/07/19	COUNCIL/PUBLIC HEARING	CR-221 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, ELEFANTE*, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TSUNEYOSHI*, WATERS.
08/08/19	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
08/21/19	BUDGET	CR-245 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD1 FORM. 3 AYES: MANAHAN, MENOR, WATERS. 1 NO: ELEFANTE. 1 EXCUSED: PINE.
10/09/19	COUNCIL	NOTE: PROPOSED FD1 POSTED ON THE AGENDA WAS NOT CONSIDERED. BILL AMENDED TO HAND-CARRIED FD1 (OCS2019-1079/10/8/2019 2:13 PM). 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA*, KOBAYASHI, MANAHAN, MENOR, PINE, TSUNEYOSHI, WATERS. CR-245 WAS ADOPTED AND BILL 37 (2019), CD1, FD1 PASSED THIRD READING. 7 AYES: ANDERSON, FUKUNAGA*, KOBAYASHI*, MANAHAN, MENOR, PINE, WATERS. 2 NOES: ELEFANTE, TSUNEYOSHI.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


GLEN I. TAKAHASHI, CITY CLERK


IKAIKA ANDERSON, CHAIR AND PRESIDING OFFICER

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CERTIFICATE

I hereby certify that on October 19, 2019, Bill 37 (2019), CD1, FD1 was presented to the Honorable Kirk Caldwell, Mayor of the City and County of Honolulu, for his approval or otherwise; and that on October 24, 2019, the Mayor returned said Bill without his signature; therefore, pursuant to Section 3-203 of the Revised Charter of Honolulu, said Bill 37 (2019), CD1, FD1 became a duly enacted ordinance on October 25, 2019.

Dated, Honolulu, State of Hawaii, this 25th day of October, 2019.

CITY COUNCIL



By

IKAIKA ANDERSON
Chair and Presiding Officer

ATTEST:



GLEN I. TAKAHASHI
City Clerk